

REMARKS

Claims 1-17 read on the previously elected species and thus claims 1-17 were examined. As claims 4, 6 and 7 are cancelled herein, claims 1-3, 5, 8-22, 24-45, 47-68, and 70 are currently pending. Claims 18-22, 24-45, 47-68, and 70 were withdrawn by the Examiner. New claims 126 and 127 are added herein, with their support coming from original claims 1 and 6 and claims 1 and 7, respectively.

Applicants herein amend claims 1, 5, 8 and 9 and cancel claims 4, 6, and 7 without prejudice and without acquiescence to further the prosecution of this case. Support for amendments to claims 1 and 5 comes from the original claims. Applicants reserve the right to pursue the respective non-amended claims or claims drawn to the same claim scope in future prosecution.

Upon allowance of the elected species claims, Applicants assert that the claims drawn to the non-elected species within the same Group I should be also allowed, given that they are close in subject matter to the elected species. That is, the Examiner required Applicants to elect a specific method of claim 1 or 24 or 47, a specific therapeutic agent of drug, hormone, gene therapy composition, radionucleotide, or nutraceutical, and, upon election of drug as the therapeutic agent, an election of a particular drug. Applicants assert that the different drugs other than cisplatin should be included in the allowed claims, given that the subject matter is closely related, being merely different specific drugs. Applicants furthermore assert that the different therapeutic agents other than drugs should also be allowable, given that they are all generic but closely related embodiments of therapeutic agents. Each of the types of agents can provide therapy upon administration, and therefore they should all rightfully be included within the genus of therapeutic agent. Furthermore, the methods not included in the elected species of claim 1 are directed to specific embodiments of claim 1, given that they are respectively drawn to a method of treating a tumor and method of occluding arteries, both of which embody dispensing a therapeutic agent (as in claim 1), which the Examiner has already generally searched. Thus, Applicants respectfully request rejoinder of the withdrawn claims.

Issue Under 35 USC §102(b)

Claims 1, 2, 10, 11, 13, 14, 16 and 17 were rejected under 35 USC §102(b) as allegedly being anticipated by U.S. Patent Number 5,945,100 (hereinafter referred to as

"Fick"). Applicants herein assert that Fick does not teach Claim 1 as currently amended or any of its dependents, and Fick also does not teach new claims 126 and 127.

The Examiner admits in the Office Action on Page 3 that, "The prior art does not teach administering the polymer composition and the cross-linker composition separately to the desired site." Therefore, given that Claim 1 as currently amended now reflects the polymer composition and the cross-linking composition being administered from separate containers to the localized region, Claim 1 and all of its dependents should now be allowable.

Applicants also assert that Fick does not teach all of the elements related to the non-elected species and respectfully request their allowance.

Issue Under 35 USC §103(a)

Claim 15 is rejected under 35 USC §103(a) as allegedly being unpatentable over Fick. Applicants respectfully disagree. Claim 15 depends from Claim 1, which as currently amended requires the polymer composition and the cross-linking composition being administered from separate containers to the localized region. There is no teaching or suggestion in Fick for the polymer composition and the cross-linking composition being administered from separate containers to the localized region.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant submits herewith a Petition for One Month Extension of Time and the requisite fee. Applicant believes no other fees are due with this response. However, if a fee is due, please charge our Deposit Account No. 06-2375, under Order No. AH-UTXC:681US from which the undersigned is authorized to draw.

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Respectfully submitted,

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